

AMENDED IN ASSEMBLY MAY 20, 1997  
AMENDED IN ASSEMBLY APRIL 10, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

## ASSEMBLY BILL

No. 1546

**Introduced by Committee on Consumer Protection,  
Governmental Efficiency and Economic Development  
(Davis (Chair), Campbell (Vice Chair), Alquist, Figueroa,  
Firestone, Machado, Morrissey, Napolitano, Ortiz, and  
Strom-Martin)**

March 5, 1997

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An act to amend Sections 5536.27, 5600, 5654, 5682, 5683, 7200, 7616, 7635, ~~7646~~, 8010, 8017, 8018, 8024.5, 8024.6, 8025, 8030.2, 8030.4, 8030.6, and 8030.8 of, to repeal Sections 5566, 5566.1, and 5566.2 of, ~~to repeal and add Section 7647 of~~, and to add Section 5631 to, the Business and Professions Code, and to amend Section 7100 of, and to add Section 7100.1 to, the Health and Safety Code, relating to ~~the Department of Consumer Affairs~~ *consumer affairs*, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1546, as amended, Committee on Consumer Protection, Governmental Efficiency and Economic Development. ~~Department of Consumer Affairs~~ *Consumer affairs*.

(1) The Architects Practice Act (hereafter the act) provides immunity from civil liability for an architect who

voluntarily provides free structural inspection services at the request of specified public officers at the scene of a declared national, state, or local emergency caused by a major earthquake.

This bill would expand the above immunity to any declared national, state, or local emergency.

(2) Under existing law, any board within the Department of Consumer Affairs may, by regulation, establish a system for issuing citations to licensees and unlicensed persons. In addition, the act provides that an executive officer appointed by the board may, after investigation, issue a citation for a violation of the provisions of the act, following specified procedures. The act also requires the board to promulgate regulations covering the assessment of civil penalties, with consideration to specified factors. In addition, the act provides a procedure to dispute citations, including review by the board and appeal to the superior court.

This bill would repeal the provisions of the act relating to issuance of citations, the promulgation of regulations covering the assessment of civil penalties, and the procedure to dispute citations.

(3) Existing law permits a licensee under the act to renew an unexpired license by applying for renewal on a prescribed form and paying the renewal fee.

This bill would provide that the renewal form shall contain a statement by the licensee of whether he or she was convicted of a crime or disciplined by another public agency during the preceding renewal period and a statement that the representations in the application are true, correct, and contain no material omissions of fact, to the best knowledge of the licensee.

(4) Existing law provides for the existence of a California State Board of Landscape Architects in the Department of Consumer Affairs.

This bill would require the Director of Consumer Affairs to appoint a professional advisory board composed of at least ~~six~~ 6 licensed professional landscape architects to advise the director on administration of provisions related to landscape architecture. The bill would also transfer responsibility for keeping records on certificate holders from the board to the



department, and would rename California State Board of Landscape Architects Fund as the California Landscape Architects Fund.

(5) The State Board of Guide Dogs, under existing law, is scheduled to become inoperative on July 1, 1997, and will be repealed on January 1, 1998, unless extended by future legislation.

This bill would extend the inoperative and repeal dates for the board for 5 years.

(6) The Funeral Directors and Embalmers Law provides for the licensure and regulation of funeral directors and embalmers, and provides for the licensing of funeral establishments.

This bill would provide that every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees, be issued a funeral establishment license.

(7) Existing law requires any person employed by, or an agent of, a licensed funeral establishment who consults with a family of a deceased person or its representatives concerning the arranging of funeral services to receive documented training and instructions on laws, rules, and regulations pertaining to specified subjects.

This bill would exclude from that requirement anyone who has successfully passed the funeral directors examination, as specified.

~~(8) Existing law provides that the Department of Consumer Affairs succeeds to, and is vested with, all the duties, powers, purpose, responsibilities, and jurisdiction of the Funeral Directors and Embalmers Board as of January 1, 1996. The Funeral Directors and Embalmers Law provides for the licensure and regulation of embalmers, as specified. An applicant for an embalmer's license is required to pass an examination, including certain subjects, which is given by the department as the successor to the board.~~

~~This bill would instead require an applicant for an embalmer's license to pass an examination administered by the Conference of Funeral Service Examining Board, which would be given not less than 4 times annually, as specified. The bill would make other related changes.~~

~~(9)~~—Under existing law, the Court Reporters Board of California administers the provisions governing the practice of shorthand reporting and issues certificates permitting the practice of shorthand reporting, as defined, to qualified persons. It is unlawful for a person to engage in shorthand reporting unless that person is the holder of a valid certificate issued by the board.

This bill would make various revisions to provisions affecting certified shorthand reporters, including stating the public status of citations, fines, and orders of abatement issued against licensees. The bill would also require passing the licensing exam in order to renew a certificate that is not renewed within 3 years of its expiration, and would require written notice to the board of all name changes. The bill would make various changes to provisions governing reimbursement from the Transcript Reimbursement Fund, which is a continuously appropriated fund, for transcripts in non-fee-generating cases involving low-income litigants, including permitting reimbursement for per diem charges. This authorization for reimbursement for per diem charges would constitute an appropriation.

~~(10)~~

(9) Existing law governs the disposition of the remains of a deceased person.

This bill would make various revisions to these provisions. The bill would also make technical, conforming changes.

~~(11)~~

(10) Because a violation of the provisions governing certified shorthand reporters is a misdemeanor, this bill would create a state-mandated local program by expanding the scope of an existing crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.



*The people of the State of California do enact as follows:*

SECTION 1. Section 5536.27 of the Business and Professions Code is amended to read:

5536.27. (a) An architect who voluntarily, without compensation or expectation of compensation, provides structural inspection services at the scene of a declared national, state, or local emergency at the request of a public official, public safety officer, or city or county building inspector acting in an official capacity, is not liable in negligence for any personal injury, wrongful death, or property damage caused by the architect's good faith but negligent inspection of a structure used for human habitation or a structure owned by a public entity for structural integrity or nonstructural elements affecting life and safety.

The immunity provided by this section applies only to an inspection that occurs within 30 days of the declared emergency.

Nothing in this section provides immunity for gross negligence or willful misconduct.

(b) As used in this section:

(1) "Architect" has the meaning given by Section 5500.

(2) "Public safety officer" has the meaning given in Section 3301 of the Government Code.

(3) "Public official" means a state or local elected officer.

SEC. 2. Section 5566 of the Business and Professions Code is repealed.

SEC. 3. Section 5566.1 of the Business and Professions Code is repealed.

SEC. 4. Section 5566.2 of the Business and Professions Code is repealed.

SEC. 5. Section 5600 of the Business and Professions Code is amended to read:

5600. (a) All licenses issued or renewed under this chapter shall expire at 12 midnight on the last day of the birth month of the licenseholder in each odd-numbered year following the issuance or renewal of the license.

1 (b) To renew an unexpired license, the licenseholder  
2 shall, before the time at which the license would  
3 otherwise expire, apply for renewal on a form prescribed  
4 by the board and pay the renewal fee prescribed by this  
5 chapter.

6 (c) The renewal form shall include a statement  
7 specifying whether the licensee was convicted of a crime  
8 or disciplined by another public agency during the  
9 preceding renewal period and that the licensee's  
10 representations on the renewal form are true, correct,  
11 and contain no material omissions of fact, to the best  
12 knowledge and belief of the licensee.

13 SEC. 6. Section 5631 is added to the Business and  
14 Professions Code, to read:

15 5631. The director shall appoint a professional  
16 advisory board composed of at least six licensed  
17 professional landscape architects to advise the director on  
18 the administration of this chapter. At least four members  
19 of the board shall be selected from a list submitted by  
20 professional organizations in California that represent  
21 licensed landscape architects, including one representing  
22 publicly employed landscape architects. The board shall  
23 meet at least four times a year and shall receive  
24 reimbursement for expenses.

25 SEC. 7. Section 5654 of the Business and Professions  
26 Code is amended to read:

27 5654. The department shall keep a record of the  
28 names and addresses of all certificate holders and  
29 additional personal data that the department may  
30 require. This record shall be updated annually. A proper  
31 index and record of each certificate issued shall be kept  
32 by the department.

33 SEC. 8. Section 5682 of the Business and Professions  
34 Code is amended to read:

35 5682. Within 10 days after the beginning of every  
36 month, all fees collected by the department for the month  
37 preceding, under the provisions of this chapter, shall be  
38 paid into the State Treasury to the credit of the California  
39 Landscape Architects Fund, which is hereby created.

1 SEC. 9. Section 5683 of the Business and Professions  
2 Code is amended to read:

3 5683. The money paid into the California Landscape  
4 Architects Fund is continuously appropriated to the  
5 department for expenditure in the manner prescribed by  
6 law to defray the expenses of the department in carrying  
7 out and enforcing the provisions of this chapter.

8 SEC. 10. Section 7200 of the Business and Professions  
9 Code is amended to read:

10 7200. (a) There is in the Department of Consumer  
11 Affairs a State Board of Guide Dogs for the Blind in whom  
12 enforcement of this chapter is vested. The board shall  
13 consist of seven members appointed by the Governor.  
14 One member shall be the Director of Rehabilitation or his  
15 or her designated representative. The remaining  
16 members shall be persons who have shown a particular  
17 interest in dealing with the problems of the blind, and at  
18 least two of them shall be blind persons who use guide  
19 dogs.

20 (b) This section shall become inoperative on July 1,  
21 2002, and, as of January 1, 2003, is repealed, unless a later  
22 enacted statute, which becomes effective on or before  
23 January 1, 2003, deletes or extends the dates on which it  
24 becomes inoperative and is repealed.

25 SEC. 11. Section 7616 of the Business and Professions  
26 Code is amended to read:

27 7616. (a) A licensed funeral establishment is a place  
28 of business conducted in a building or separate portion of  
29 a building having a specific street address or location and  
30 devoted exclusively to those activities as are incident,  
31 convenient, or related to the preparation and  
32 arrangements, financial and otherwise, for the funeral,  
33 transportation, burial or other disposition of human  
34 remains and including, but not limited to, either of the  
35 following:

36 (1) A suitable room for the storage of human remains.

37 (2) A preparation room equipped with a sanitary  
38 flooring and necessary drainage and ventilation and  
39 containing necessary instruments and supplies for the

1 preparation, sanitation, or embalming of human remains  
2 for burial or transportation.

3 (b) Licensed funeral establishments under common  
4 ownership or by contractual agreement within close  
5 geographical proximity of each other shall be deemed to  
6 be in compliance with the requirements of paragraph (1)  
7 or (2) of subdivision (a) if at least one of the  
8 establishments has a room described in those paragraphs.

9 (c) Except as provided in Section 7609, and except  
10 accredited embalming schools and colleges engaged in  
11 teaching students the art of embalming, no person shall  
12 operate or maintain or hold himself or herself out as  
13 operating or maintaining any of the facilities specified in  
14 paragraph (2) of subdivision (a), unless he or she is  
15 licensed as a funeral director.

16 (d) Nothing in this section shall be construed to  
17 require a funeral establishment to conduct its business or  
18 financial transactions at the same location as its  
19 preparation or storage of human remains.

20 (e) Nothing in this chapter shall be deemed to render  
21 unlawful the conduct of any ambulance service from the  
22 same premises as those on which a licensed funeral  
23 establishment is conducted, including the maintenance  
24 in connection with the funeral establishment of garages  
25 for the ambulances and living quarters for ambulance  
26 drivers.

27 (f) Every funeral establishment holding a funeral  
28 director's license on December 31, 1996, shall, upon  
29 application and payment of fees for renewal of its funeral  
30 director's license, be issued a funeral establishment  
31 license.

32 SEC. 12. Section 7635 of the Business and Professions  
33 Code is amended to read:

34 7635. (a) Any person employed by, or an agent of, a  
35 licensed funeral establishment, who consults with the  
36 family or representatives of a family of a deceased person  
37 for the purpose of arranging for services as set forth in  
38 subdivision (a) of Section 7615, shall receive documented  
39 training and instruction which results in a demonstrated  
40 knowledge of all applicable federal and state laws, rules,



1 and regulations including those provisions dealing with  
2 vital statistics, the coroner, anatomical gifts, and other  
3 laws, rules, and regulations pertaining to the duties of a  
4 funeral director. A written outline of the training  
5 program, including documented evidence of the training  
6 time, place, and participants, shall be maintained in the  
7 funeral establishment and shall be available for  
8 inspection and comment by an inspector of the board.

9 (b) This section shall not apply to anyone who has  
10 successfully passed the funeral director's examination  
11 pursuant to Section 7622.

12 ~~SEC. 13. Section 7646 of the Business and Professions~~  
13 ~~Code is amended to read:~~

14 ~~7646. The board shall require the applicant to pass an~~  
15 ~~examination, known as the National Board, administered~~  
16 ~~by the Conference of Funeral Service Examining Board.~~  
17 ~~The board may add additional testing requirements~~  
18 ~~regarding state laws, rules, and regulations.~~

19 ~~SEC. 14. Section 7647 of the Business and Professions~~  
20 ~~Code is repealed.~~

21 ~~SEC. 15. Section 7647 is added to the Business and~~  
22 ~~Professions Code, to read:~~

23 ~~7647. The board shall arrange for the National Board~~  
24 ~~examination to be given not less than four times annually~~  
25 ~~in this state.~~

26 ~~SEC. 16.~~

27 ~~SEC. 13. Section 8010 of the Business and Professions~~  
28 ~~Code is amended to read:~~

29 8010. Information regarding a complaint against a  
30 specific licensee may not be disclosed to the public until  
31 an accusation has been filed by the board and the licensee  
32 has been notified of the filing of the accusation against his  
33 or her license and the disciplinary proceedings to be  
34 conducted in accordance with Chapter 5 (commencing  
35 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
36 Government Code. This section does not apply to  
37 citations, fines, or orders of abatement, which shall be  
38 disclosed to the public upon notice to the licensee.

39 ~~SEC. 17.~~

1     *SEC. 14.* Section 8017 of the Business and Professions  
2 Code is amended to read:

3     8017. The practice of shorthand reporting is defined  
4 as the making, by means of written symbols or  
5 abbreviations in shorthand or machine shorthand  
6 writing, of a verbatim record of any oral court  
7 proceeding, deposition, or proceeding before any grand  
8 jury, referee, or court commissioner and the accurate  
9 transcription thereof.

10    ~~SEC. 18.~~

11    *SEC. 15.* Section 8018 of the Business and Professions  
12 Code is amended to read:

13     8018. Any natural person holding a valid certificate as  
14 a shorthand reporter, as provided in this chapter, shall be  
15 known as a “certified shorthand reporter.” Except as  
16 provided in Section 8043, no other person, firm, or  
17 corporation may assume or use the title “certified  
18 shorthand reporter,” or the abbreviation “C.S.R.,” or use  
19 any words or symbols indicating or tending to indicate  
20 that he, she, or it is certified under this chapter.

21    ~~SEC. 19.~~

22    *SEC. 16.* Section 8024.5 of the Business and  
23 Professions Code is amended to read:

24     8024.5. A certificate that is not renewed within three  
25 years after its expiration may not be renewed, restored,  
26 reinstated, or reissued thereafter. The holder of the  
27 certificate shall return the expired certificate to the  
28 board. To obtain a new certificate, the holder shall pay all  
29 of the fees and meet all of the qualifications and  
30 requirements set forth in this chapter for obtaining an  
31 original certificate, including qualifying for, taking, and  
32 passing the licensing examination.

33    ~~SEC. 20.~~

34    *SEC. 17.* Section 8024.6 of the Business and  
35 Professions Code is amended to read:

36     8024.6. (a) A certificate holder shall give written  
37 notice to the board at its office in Sacramento of a name  
38 change within 30 days after each change, giving both the  
39 old and the new names. A copy of the legal document

1 affecting the name change, such as a court order or  
2 marriage certificate, shall be submitted with the notice.

3 (b) Each certificate holder shall notify the board in  
4 writing at its office in Sacramento of a change of address  
5 within 30 days after each change, giving both the old and  
6 the new addresses.

7 (c) A penalty as provided in this chapter shall be paid  
8 by each certificate holder who fails to notify the board  
9 within 30 days as specified in this section.

10 ~~SEC. 21.~~

11 *SEC. 18.* Section 8025 of the Business and Professions  
12 Code is amended to read:

13 8025. A certificate issued under this chapter may be  
14 suspended or revoked, or certification may be denied, for  
15 one or more of the following causes:

16 (a) Conviction of a crime substantially related to the  
17 qualifications, functions, and duties of a certified  
18 shorthand reporter. The record of conviction, or a  
19 certified copy thereof, is conclusive evidence of the  
20 conviction.

21 (b) Failure to notify the board of a conviction  
22 described in subdivision (a), in accordance with Section  
23 8024 or 8024.2.

24 (c) Fraud or misrepresentation resorted to in  
25 obtaining a certificate hereunder.

26 (d) Fraud, dishonesty, corruption, willful violation of  
27 duty, gross negligence or incompetency in practice, or  
28 unprofessional conduct in the practice of shorthand  
29 reporting.

30 “Unprofessional conduct” includes, but is not limited  
31 to, acts contrary to professional standards concerning  
32 confidentiality; impartiality; filing and retention of notes;  
33 notifications, availability, delivery, execution and  
34 certification of transcripts; and any provision of law  
35 substantially related to the duties of a certified shorthand  
36 reporter.

37 (e) Repeated unexcused failure, whether or not  
38 willful, to transcribe notes of cases pending on appeal and  
39 to file the transcripts of those notes within the time  
40 required by law or to transcribe or file notes of other

1 proceedings within the time required by law or agreed by  
2 contract. Violation of this subdivision shall also be  
3 deemed an act endangering the public health, safety, or  
4 welfare within the meaning of Section 494.

5 (f) Loss or destruction of stenographic notes, whether  
6 on paper or electronic media, which prevents the  
7 production of a transcript due to negligence of the  
8 licensee.

9 (g) Failure to comply with, or to pay a monetary  
10 sanction imposed by, any court for failure to provide  
11 timely transcripts.

12 (h) Violation of this chapter or the statutes, rules, and  
13 regulations pertaining to certified shorthand reporters.

14 ~~SEC. 22.~~

15 *SEC. 19.* Section 8030.2 of the Business and  
16 Professions Code is amended to read:

17 8030.2. (a) To provide shorthand reporting services  
18 to low-income litigants in civil cases, who are unable to  
19 otherwise afford those services, funds generated by fees  
20 received by the board pursuant to subdivision (c) of  
21 Section 8031 in excess of funds needed to support the  
22 board's operating budget for the fiscal year in which a  
23 transfer described below is made shall be used by the  
24 board for the purpose of establishing and maintaining a  
25 Transcript Reimbursement Fund. The Transcript  
26 Reimbursement Fund shall be established by a transfer of  
27 funds from the Court Reporters' Fund and shall be  
28 maintained in an amount no less than three hundred  
29 thousand dollars (\$300,000) for each fiscal year.

30 (b) All moneys held in the Court Reporters' Fund on  
31 the effective date of this section in excess of the board's  
32 operating budget for the 1996–97 fiscal year shall be used  
33 as provided in subdivision (a).

34 (c) Refunds and unexpended funds that are  
35 anticipated to remain in the Transcript Reimbursement  
36 Fund at the end of the fiscal year shall be considered by  
37 the board in establishing the fee assessment pursuant to  
38 Section 8031 so that the assessment shall maintain the  
39 Transcript Reimbursement Fund at the appropriate level  
40 in the following fiscal year.

(d) The Transcript Reimbursement Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the Transcript Reimbursement Fund are continuously appropriated for the purposes of this chapter.

(e) Applicants who have been reimbursed pursuant to this chapter for services provided to litigants and who are awarded court costs or attorneys' fees by judgment or by settlement agreement, shall refund the full amount of that reimbursement to the fund within 90 days of receipt of the award or settlement.

(f) Subject to the limitations of this chapter, the board shall maintain the fund at a level that is sufficient to pay all qualified claims. To accomplish this objective, the board shall utilize all refunds, unexpended funds, fees, and any other moneys received by the board.

(g) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of June 29, 1999, shall be transferred to the Court Reporters' Fund.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 23.~~

*SEC. 20.* Section 8030.4 of the Business and Professions Code is amended to read:

8030.4. As used in this chapter:

(a) "Qualified legal services project" means a nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons, has a board of directors or advisory board composed of both attorneys and consumers of legal services, and provides for community participation in legal services programming. Legal services projects funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are

1 presumed to be qualified legal services projects for the  
2 purposes of this chapter.

3 (b) “Qualified support center” means an incorporated  
4 nonprofit legal services center, having an office or offices  
5 in California, which office or offices provide legal services  
6 or technical assistance without charge to qualified legal  
7 services projects and their clients on a multicounty basis  
8 in California. Support centers funded either in whole or  
9 in part by the Legal Services Corporation or with Older  
10 Americans Act funds are presumed to be qualified legal  
11 services projects for the purposes of this chapter.

12 (c) “Other qualified project” means a nonprofit  
13 organization formed for charitable or other public  
14 purposes, not receiving funds from the Legal Services  
15 Corporation or pursuant to the Older Americans Act,  
16 which organization or association provides free legal  
17 services to indigent persons.

18 (d) “Pro bono attorney” means any attorney, law firm,  
19 or legal corporation, licensed to practice law in this state,  
20 which undertakes without charge to the party the  
21 representation of an indigent person, referred by a  
22 qualified legal services project, qualified support center,  
23 or other qualified project, in a case not considered to be  
24 fee generating as defined in this chapter.

25 (e) “Applicant” means a qualified legal services  
26 project, qualified support center, other qualified project,  
27 or pro bono attorney applying to receive funds from the  
28 Transcript Reimbursement Fund established by this  
29 chapter. The term “applicant” shall not include persons  
30 appearing pro se to represent themselves at any stage of  
31 the case.

32 (f) “Indigent person” means either a person whose  
33 income is 125 percent or less of the current poverty  
34 threshold established by the Office of Management and  
35 Budget of the United States, a disabled person whose  
36 income after meeting medical and other  
37 disability-related special expenses is 125 percent or less of  
38 that current poverty threshold, or a person who receives  
39 or is eligible to receive supplemental security income.



1 (g) “Fee-generating case” means any case or matter  
2 which, if undertaken on behalf of an eligible client by an  
3 attorney in private practice, reasonably may be expected  
4 to result in payment of a fee for legal services from an  
5 award to a client, from public funds, or from an opposing  
6 party. A reasonable expectation as to payment of a legal  
7 fee exists wherever a client enters into a contingent fee  
8 agreement with his or her lawyer. If there is no  
9 contingent fee agreement, a case is not considered fee  
10 generating if adequate representation is deemed to be  
11 unavailable because of the occurrence of any of the  
12 following circumstances:

13 (1) Where the applicant has determined that referral  
14 is not possible because of any of the following:

15 (A) The case has been rejected by the local lawyer  
16 referral service, or if there is no such service, by two  
17 private attorneys who have experience in the subject  
18 matter of the case.

19 (B) Neither the referral service nor any lawyer will  
20 consider the case without payment of a consultation fee.

21 (C) The case is of the type that private attorneys in the  
22 area ordinarily do not accept, or do not accept without  
23 prepayment of a fee.

24 (D) Emergency circumstances compel immediate  
25 action before referral can be made, but the client is  
26 advised that, if appropriate and consistent with  
27 professional responsibility, referral will be attempted at  
28 a later time.

29 (2) Where recovery of damages is not the principal  
30 object of the case and a request for damages is merely  
31 ancillary to an action for equitable or other nonpecuniary  
32 relief; or inclusion of a counterclaim requesting damages  
33 is necessary for effective defense or because of applicable  
34 rules governing joinder of counterclaims.

35 (3) Where a court appoints an applicant or an  
36 employee of an applicant pursuant to a statute or a court  
37 rule or practice of equal applicability to all attorneys in  
38 the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) “Legal Services Corporation” means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) “Supplemental security income recipient” means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, Public Law 92-603, as amended, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) “Lawyer referral service” means a lawyer referral program authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) “Older Americans Act” means the Older Americans Act of 1965, Public Law 89-73, as amended.

(l) “Rules of professional conduct” means those rules adopted by the State Bar pursuant to Sections 6076 and 6077.

(m) “Certified shorthand reporter” means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) performing shorthand reporting services pursuant to Section 8017.

(n) “Case” means a single legal proceeding from its inception, through all levels of hearing, trial, and appeal, until its ultimate conclusion and disposition.

(o) “Regular customary charges” means the cost of transcription. The charges may not include handling charges. The charges do include actual shipping costs, notary fees, and exhibits. The cost for exhibits may not exceed thirty-five cents (\$0.35) each and may not exceed thirty-five dollars (\$35) per transcript.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 24.~~



1     *SEC. 21.* Section 8030.6 of the Business and  
2 Professions Code is amended to read:

3     8030.6. The board shall disburse funds from the  
4 Transcript Reimbursement Fund for the costs, exclusive  
5 of per diem charges, of preparing either an original  
6 transcript and one copy thereof, or where appropriate, a  
7 copy of the transcript, of court or deposition proceedings,  
8 or both, incurred as a contractual obligation between the  
9 shorthand reporter and the applicant, for litigation  
10 conducted in California. If no transcript is ordered, the  
11 board may reimburse the applicant or the certified  
12 shorthand reporter designated in the application for per  
13 diem costs. The reimbursed per diem rate may not  
14 exceed the rate of the court per diem in the jurisdiction  
15 in which the court proceeding or deposition was reported  
16 at the time the proceeding was held. Reimbursement  
17 may be obtained through the following procedures:

18     (a) The applicant or certified shorthand reporter shall  
19 promptly submit to the board the certified shorthand  
20 reporter's invoice for transcripts together with the  
21 appropriate documentation as is required by this chapter.

22     (b) Except as provided in subdivision (c), the board  
23 shall promptly determine if the applicant or the certified  
24 shorthand reporter is entitled to reimbursement under  
25 this chapter and shall make payment as follows:

26     (1) Regular customary charges for preparation of  
27 original deposition transcripts and one copy thereof, or a  
28 copy of the transcripts.

29     (2) Regular customary charges for expedited  
30 deposition transcripts up to a maximum of two thousand  
31 five hundred dollars (\$2,500) per case.

32     (3) Regular customary charges for the preparation of  
33 original transcripts and one copy thereof, or a copy of  
34 transcripts of court proceedings.

35     (4) Regular customary charges for expedited or daily  
36 charges for preparation of original transcripts and one  
37 copy thereof or a copy of transcripts of court proceedings.

38     (c) The maximum amount reimbursable by the fund  
39 under subdivision (b) may not exceed twenty thousand  
40 dollars (\$20,000) per case per year.

1 (d) If entitled, and funds are available, the board shall  
2 forthwith disburse the appropriate sum to the applicant  
3 or the certified shorthand reporter when documentation  
4 as provided in subdivision (d) of Section 8030.8  
5 accompanies the application. A notice shall be sent to the  
6 recipient requiring the recipient to file a notice with the  
7 court in which the action is pending stating the sum of  
8 reimbursement paid pursuant to this section. The notice  
9 filed with the court shall also state that if the sum is  
10 subsequently included in any award of costs made in the  
11 action, that the sum is to be ordered refunded by the  
12 applicant to the Transcript Reimbursement Fund  
13 whenever the sum is actually recovered as costs. The  
14 court may not consider whether payment has been made  
15 from the Transcript Reimbursement Fund in  
16 determining the appropriateness of any award of costs to  
17 the parties. The board shall also forthwith notify the  
18 applicant that the reimbursed sum has been paid to the  
19 certified shorthand reporter and shall likewise notify the  
20 applicant of the duty to refund any of the sum actually  
21 recovered as costs in the action.

22 (e) If not entitled, the board shall forthwith return a  
23 copy of the invoice to the applicant and the designated  
24 certified shorthand reporter together with a notice  
25 stating the grounds for denial.

26 (f) The board shall complete its actions under this  
27 subdivision within 30 days of receipt of the invoice and all  
28 required documentation, including a completed  
29 application.

30 (g) Applications for reimbursements from the fund  
31 shall be filled on a first-come basis.

32 (h) Applications for reimbursement that cannot be  
33 paid from the fund due to insufficiency of the fund for  
34 that fiscal year shall be held over until the next fiscal year  
35 to be paid out of the renewed fund.

36 This section shall become inoperative on July 1, 1999,  
37 and, as of January 1, 2000, is repealed, unless a later  
38 enacted statute, that becomes operative on or before  
39 January 1, 2000, deletes or extends the dates on which it  
40 becomes inoperative and is repealed.

~~SEC. 25.~~

SEC. 22. Section 8030.8 of the Business and Professions Code is amended to read:

8030.8. (a) For purposes of this chapter, documentation accompanying an invoice is sufficient to establish entitlement for reimbursement from the Transcript Reimbursement Fund if it is filed with the executive officer on an application form prescribed by the board that is complete in all respects, and that establishes all of the following:

(1) The case name and number and that the litigant or litigants requesting the reimbursement are indigent persons.

(2) The applicant is qualified under the provisions of this chapter.

(3) The case is not a fee-generating case, as defined in Section 8030.4.

(4) The invoice or other documentation shall evidence that the certified shorthand reporter to be reimbursed was, at the time the services were rendered, a duly licensed certified shorthand reporter.

(5) The invoice shall be accompanied by a statement, signed by the applicant, stating that the charges are for transcripts actually provided as indicated on the invoice.

(6) The applicant has acknowledged, in writing, that as a condition of entitlement for reimbursement that the applicant agrees to refund the entire amount disbursed from the Transcript Reimbursement Fund from any costs or attorneys' fees awarded to the applicant by the court or provided for in any settlement agreement in the case.

(7) The certified shorthand reporter's invoice for transcripts shall include separate itemizations of charges claimed, as follows:

(A) Total charges and rates for customary services in preparation of an original transcript and one copy or a copy of the transcript of depositions.

(B) Total charges and rates for expedited deposition transcripts.

(C) Total charges and rates in connection with transcription of court proceedings.

1 (b) For an applicant claiming to be eligible pursuant  
2 to subdivision (a), (b), or (c) of Section 8030.4, a letter  
3 from the director of the project or center, certifying that  
4 the project or center meets the standards set forth in one  
5 of those subdivisions and that the litigant or litigants are  
6 indigent persons, is sufficient documentation to establish  
7 eligibility.

8 (c) For an applicant claiming to be eligible pursuant  
9 to subdivision (d) of Section 8030.4, a letter certifying that  
10 the applicant meets the requirements of that subdivision,  
11 that the case is not a fee-generating case, as defined in  
12 subdivision (g) of Section 8030.4, and that the litigant or  
13 litigants are indigent persons, together with a letter from  
14 the director of a project or center defined in subdivision  
15 (a), (b), or (c) of Section 8030.4 certifying that the  
16 litigant or litigants had been referred by that project or  
17 center to the applicant, is sufficient documentation to  
18 establish eligibility.

19 (d) The applicant may receive reimbursement  
20 directly from the board when the applicant has  
21 previously paid the certified shorthand reporter for  
22 transcripts as provided in Section 8030.6. To receive  
23 payment directly, the applicant shall submit, in addition  
24 to all other required documentation, an itemized  
25 statement signed by the certified shorthand reporter  
26 performing the services that describes payment for  
27 transcripts in accordance with the requirements of  
28 Section 8030.6.

29 (e) The board may prescribe appropriate forms to be  
30 used by applicants and certified reporters to facilitate  
31 these requirements.

32 (f) This chapter does not restrict the contractual  
33 obligation or payment for services, including, but not  
34 limited to, billing the applicant directly, during the  
35 pendency of the claim.

36 This section shall become inoperative on July 1, 1999,  
37 and, as of January 1, 2000, is repealed, unless a later  
38 enacted statute, that becomes operative on or before  
39 January 1, 2000, deletes or extends the dates on which it  
40 becomes inoperative and is repealed.

~~SEC. 26.~~

SEC. 23. Section 7100 of the Health and Safety Code is amended to read:

7100. (a) The right to control the disposition of the remains of a deceased person, and to arrange for funeral goods and services to be provided, unless other directions have been given by the decedent pursuant to Section 7100.1, vests in, and the duty of interment and the liability for the reasonable cost of interment of the remains devolves upon the following in the order named:

(1) The surviving spouse.

(2) The sole surviving adult child of the decedent, or if there is more than one adult child of the decedent, the majority of the surviving adult children. However, less than the majority shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving adult children of their instructions and are not aware of any opposition to those instructions on the part of one-half or more of all surviving adult children. For purposes of this section, “adult child” means a competent natural or adopted child of the decedent who has attained 18 years of age.

(3) The surviving parent or parents of the decedent. If one of the surviving parents is absent, the remaining parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent.

(4) The surviving person or persons respectively in the next degrees of kindred. If there is more than one surviving person of the same degree of kindred, the majority of those persons. Less than the majority of surviving persons of the same degree of kindred shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving persons of the same degree of kindred of their instructions and are not aware of any opposition to those instructions on the part of one-half or more of all surviving persons of the same degree of kindred.

(5) The public administrator when the deceased has sufficient assets.

(b) A funeral director or cemetery authority shall have complete authority to control the disposition of the remains, and to proceed under this chapter to recover usual and customary charges for the disposition, when both of the following apply:

(1) Either of the following applies:

(A) The funeral director or cemetery authority has knowledge that none of the persons described in paragraphs (1) to (4) of subdivision (a) exists.

(B) None of the persons described in paragraphs (1) to (4) of subdivision (a) can be found after reasonable inquiry, or contacted by reasonable means.

(2) The public administrator fails to assume responsibility for disposition of the remains within seven days after having been given written notice of the facts. Written notice may be delivered by hand, U.S. mail, facsimile transmission, or telegraph.

(c) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent; provided, that should a person accept the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be liable for the reasonable cost of final disposition of the decedent.

(d) This section shall be administered and construed to the end that the expressed instructions of the decedent or the person entitled to control the disposition shall be faithfully and promptly performed.

(e) A funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition.

~~SEC. 27.~~

*SEC. 24.* Section 7100.1 is added to the Health and Safety Code, to read:

7100.1. (a) A decedent, prior to death, may direct, in writing, the disposition of his or her remains and specify funeral goods and services to be provided. Unless there is a statement to the contrary that is signed and dated by the

1 decedent, the directions may not be altered, changed, or  
 2 otherwise amended in any material way, except as may  
 3 be required by law, and shall be faithfully carried out  
 4 upon his or her death, provided both of the following  
 5 requirements are met: (1) the directions set forth clearly  
 6 and completely the final wishes of the decedent in  
 7 sufficient detail so as to preclude any material ambiguity  
 8 with regard to the instructions; and, (2) the cost of the  
 9 disposition and the funeral goods and services to be  
 10 provided are held in trust pursuant to Section 7735 of the  
 11 Business and Professions Code, funded through  
 12 insurance, or otherwise set aside in a fund or funds  
 13 designated for that purpose, so as to preclude the  
 14 payment of any funds by the survivor or survivors of the  
 15 deceased that might otherwise retain the right to control  
 16 the disposition and arrange for funeral goods and services  
 17 to be provided.

18 (b) In the event only one of either the cost of  
 19 disposition or the cost of the funeral goods and services  
 20 are set aside pursuant to this section, the remaining  
 21 wishes of the decedent shall be carried out only to the  
 22 extent that the decedent has sufficient assets to do so,  
 23 unless the person or persons that otherwise have the right  
 24 to control the disposition and arrange for funeral goods  
 25 and services agree to assume the cost. All other provisions  
 26 of the directions shall be carried out.

27 (c) If the directions are contained in a will, they shall  
 28 be immediately carried out, regardless of the validity of  
 29 the will in other respects or of the fact that the will may  
 30 not be offered for or admitted to probate until a later  
 31 date.

32 ~~SEC. 28.~~

33 SEC. 25. No reimbursement is required by this act  
 34 pursuant to Section 6 of Article XIII B of the California  
 35 Constitution because the only costs that may be incurred  
 36 by a local agency or school district will be incurred  
 37 because this act creates a new crime or infraction,  
 38 eliminates a crime or infraction, or changes the penalty  
 39 for a crime or infraction, within the meaning of Section  
 40 17556 of the Government Code, or changes the definition

1 of a crime within the meaning of Section 6 of Article  
2 XIII B of the California Constitution.  
3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

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